



# MARICOPA COUNTY, ARIZONA

## Board of Adjustment

### Minutes

### May 18, 2017

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**CALL TO ORDER:**

Chairman Harris called meeting to order at 10:01 a.m.

**ROLL CALL/****MEMBERS PRESENT:**

Mr. Abe Harris, Chairman  
Mr. Jason Morris, Vice Chairman  
Mr. Craig Cardon  
Mr. Greg Loper  
Ms. Wendy Riddell

**STAFF PRESENT:**

Mr. Darren Gerard, Planning Deputy Director  
Ms. Rachel Applegate, Senior Planner  
Mr. Glenn Bak, Planner  
Mr. Eric Smith, Planner  
Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:**

Mr. Robert Swan, County Counsel

**ANNOUNCEMENTS:**

Chairman Harris made all standard announcements.

**APPROVAL OF MINUTES:**

April 20, 2017

**AGENDA ITEMS:**

TU2017007, BA2017013, BA2017008, BA2017011, TU2017010,  
TU2017011

Chairman Harris asked if there were any changes to the April 20 minutes. None.

**BOARD ACTION: Member Loper motioned to approve the April 20, 2017 minutes. Member Riddell second. Approved 5-0.**

### **CONTINUANCE AGENDA**

**TU2017007**

Applicant:

Location:

Zoning:

Request:

**Jzyk Property (Cont. from 4/20/17)**

Stanley Jzyk

201-16-088 @ 9230 W Mariposa Grande – Pinnacle Peak & 93<sup>rd</sup> Ave.,  
in the Peoria area

Rural-43 zoning district

1) Temporary Use Permit requesting a Temporary Caretaker Quarters

**District 4**

Chairman Harris noted TU2017007 was moved from the Regular Agenda to the Continuance Agenda.

Member Cardon stated we should apologize to any neighbors that came out to speak on this matter.

Mr. Gerard asked if there's anyone here today to speak for TU2017007, the Jzyk Property at 9230 W. Mariposa Grande. None.

**BOARD ACTION: Vice Chairman Morris motioned to continue TU2017007 to June 15, 2017. Member Loper second. Continued 5-0.**

### **CONSENT AGENDA**

<b>BA2017013</b>	<b>Huish Property</b>	<b>District 2</b>
<b>Applicant:</b>	Spencer Ellington	
<b>Location:</b>	220-66-040B @ 11201 E. Apache Trail – Apache Trail & Elmont Drive in the Apache Junction area	
<b>Zoning:</b>	C-3 and R1-8 zoning districts	
<b>Request:</b>	1) The omission of a 6' (h) wall as required per MCZO Art. 805.9.1.a	

Mr. Smith presented the consent agenda.

**BOARD ACTION: Member Riddell moved to approve the consent agenda; BA2017013 with conditions 'a'-'d'. Member Cardon second. Approved 5-0.**

- a) General compliance with the site plan stamped received April 17, 2017.
- b) All required building permit for proposed and existing development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permit within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- d) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

### **REGULAR AGENDA**

<b>BA2017008</b>	<b>See Property (Cont. from 4/20/17)</b>	<b>District 4</b>
<b>Applicant:</b>	Daniel See	
<b>Location:</b>	200-93-330 @ 9401 W. Raintree – 99 <sup>th</sup> Ave. and Thunderbird Blvd. in Sun City	
<b>Zoning:</b>	R1-6 SC zoning district	
<b>Request:</b>	1) Proposed side yard setback of 3.5 feet when 5 feet is the minimum required	

Mr. Bak presented BA2017008.

Mr. Daniel See, the applicant noted the request is to add an additional storage area to their home and to install Heating, Ventilation and Air Conditioning (HVAC). It will be placed behind their existing concrete wall so there would be no visibility to the street. It will be 6' x 12' attached to the home which would leave a 3-1/2 foot setback to the side of their home.

Mr. Gregory Rice, the contractor said there is a considerable amount of area on one side as opposed to the other and the way the house was positioned becomes a hardship.

Mr. See stated there are several other residences within a two to three block area with setback distances less than five feet.

Vice Chairman Morris asked if there will be access to the main residence or from the exterior only. Mr. See said the exterior.

Vice Chairman Morris asked if the storage will be attached to the main residence. Mr. See said yes.

Vice Chairman Morris asked what the purpose of the storage is. Mr. See stated it will provide a full year storage and to avoid paying extra costs for outside storage. Going to store Christmas items, memorabilia, and things that you cannot have in uncooled areas.

Member Loper asked if this were detached would it be within three feet of the property line and is the minimum separation also three feet? Mr. Gerard said for a storage unit to the residence there is not a minimum separation as long as it is structurally detached, and not under the same eave. A detached accessory structure allows a three foot side setback, but in this instance there is some concern from drainage engineering that there's not sufficient pathway for drainage on that side. Staff recommends to have a shed attached or detached somewhere in the rear yard.

Member Loper said if it's free standing then it is structurally independent, but what makes it considered to be attached? Mr. Gerard said it's been presented to staff that it will be attached to the house. Even if the zoning is approved there still may be a drainage clearance concern. If it were a detached structure then it would meet the zoning clearance.

Member Loper asked if this is structurally independent or will it be tied into the structure itself? Mr. Rice said they are tying it into the structure and they have drawn up full plans. The block wall in the front of the storage area does have weep holes in it for adequate drainage, and they are three-foot six in the clear for drainage.

Member Riddell noted there is a certain size a structure can be that doesn't require permitting. Mr. Gerard said yes, it's 200 square feet.

Member Riddell said if this were a detached structure they wouldn't even be required to get a building permit clearance or anything? Mr. Gerard said that is correct, but they still must meet the three foot setback.

Vice Chairman Morris stated there's at least three members of this Board who spend their day jobs trying to find solutions to things like this, and hopes they understand the Board is trying to work with them, but at the same time they need to respect the ordinances, rules and regulations of Maricopa County.

Member Loper said if it wasn't independent and it had to be self-supporting, you can run the duct work to it then it would be exempt by size, then you wouldn't have to go through a drainage clearance.

Vice Chairman Morris said with the remaining 3-1/2 feet give or take you could make sure you have the adequate drainage on that side. Mr. See said it was never a thought to have it separated by six inches.

Vice Chairman Morris stated under the circumstances you may want to take some time with the application since you already paid for it and you know where you stand. The Board is willing to work with an applicant but in cases like this it is very difficult to entirely flout the ordinance. There may be an alternative solution where you may not need a variance, and suggested to continue for 60 days.

Member Riddell said there is a likelihood you could be exempt altogether if you could detach the structure.

Mr. Bak noted if there are utilities running to the unit and even if it is under 200 square foot it does trigger a need for a building permit. Mr. Gerard said that is correct.

Member Riddell said this is still permissible as a detached structure. Mr. Gerard said yes, if it is structurally detached and not under the same eave it can be as close as three feet from the side for zoning. Engineering has said the side yard location will have an adverse effect on drainage.

Member Riddell asked if there is a civil engineer assisting with this project? Mr. Rice said no.

Member Loper said you may want to talk with drainage first and come up with a solution.

Member Riddell asked how far the eave will extend. Mr. Rice said three feet.

Mr. Gerard suggested building the storage structure on the south side of the house. Mr. Rice said they did entertain putting the building in the back, but it incurs a lot more costs.

Mr. Gerard said if the case is continued they should speak with building plan review and engineering plan review, since these are the two agencies that deal with permitting.

Vice Chairman Morris said he does not want to suggest a continuance will solve all these problems, since this is a lot more complex than just detaching it. If you come back for a variance, there is a statutory test that the Board is obligated to look at and it is not always easy to make it work and grant variances.

**BOARD ACTION: Vice Chairman Morris motioned to continue BA2017008 to July 13, 2017. Member Loper second. Continued 5-0.**

**BA2017011**

**Hinojos Property**

**District 5**

**Applicant:**

Angela Mendoza

**Location:**

300-14-054 @ 7824 S. Old 27<sup>th</sup> Ave. 27<sup>th</sup> Ave. and Baseline Rd. in the Laveen area

**Zoning:**

Rural-43 zoning district

**Request:**

1) Existing lot width of 139.35 feet where 145 feet is the minimum required

Mr. Bak presented BA2017011.

Mr. Rueben Mendoza, representing the property owner stated Mr. Hinojos has been saving for many years to purchase property and to build a home. Back in February he found a piece of land to purchase, but when they went to the County they were told there wasn't enough feet in front, so now they are looking for help to build their home.

Member Loper asked if they contacted the property owner to the south to acquire an extra 5-1/2 feet. Mr. Mendoza said yes, but the church wanted 2.5 million for four feet. We tried everything and Mr. Hinojos has tied up \$100,000 and still does not have a home. He is having to rent and it's a hardship for their family. They have been saving for years for this, and were never told he couldn't build on the property.

Member Loper asked staff about a possible ten percent leeway that could be administratively approved for lot width. Mr. Gerard stated when determining if a site plan qualifies for an administrative minor amendment opposed to a major amendment, the Maricopa County ordinance does not have any administrative leeway in determining the development standards. The fence on the northern property line is setback six feet from the lot line and there's an assumption that's the property line, but it's not. Looking at the wall, it's a 145 foot wide lot, but it is not legal in actuality.

Mr. Mendoza said there are three nails out there, one is on the south side and they are six feet away from another point. Mr. Gerard said from the north it is setback from the property line, and there has been an assumption that was the lot line and it's not. The lot line is actually six feet in from the fence.

Vice Chairman Morris asked what a solution for the utilization of the property is if not a variance. Mr. Bak said the first remedy is to acquire some property with a small strip from the north or to the south. The south has already been looked at and is not a viable option. This leaves the north property line and the fence creates a defect property line. Staff looked at the history of the lot split and it was done about 25 years ago.

**BOARD ACTION: Vice Chairman Morris moved to approve BA2017011 with conditions 'a'-'c'. Member Riddell second. Approved 5-0.**

- a) General compliance with the Results of Survey stamped received April 14, 2017.
- b) All required building permit for proposed and existing development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permit within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.

- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

<b>TU2017010</b>	<b>Hager Property</b>	<b>District 3</b>
<b>Applicant:</b>	Troy Hager	
<b>Location:</b>	202-06-079B @ 2606 W. Estrella Rd. – Estrella Rd. & 27 <sup>th</sup> Ave. in the New River area	
<b>Zoning:</b>	Rural-43 zoning district	
<b>Request:</b>	1) Temporary Use Permit requesting a Temporary Caretaker Quarters	

Mr. Bak presented TU2017010.

Mr. Troy Hager stated he is requesting a caretaker quarters, the caretaker cares for his father and cleans the house. There has been a unit on the property and the old one was removed and they put a different Recreational Vehicle (RV) in its place.

Vice Chairman Morris noted there are letters of opposition. Mr. Hager said the other trailer was there pre-2000, and there has been an issue with neighbors in regards to drainage. The neighbors to the south have been the ones complaining and their property is in a flood plain 6 to 8 feet below his.

Vice Chairman Morris asked staff about the standard review for the use permit. Mr. Gerard said a family medical hardship is quite often grounds for a Temporary Use for a caretaker. It's two years with an annual update and only valid as the condition exists, and cannot be occupied after that person is deceased.

Mr. Hager asked what if he needs it for himself since he's a 100 percent disabled veteran and has had multiple surgeries, could he use it eventually for his own care. Mr. Gerard said you can have an accessory dwelling, but cannot have more than one accessory dwelling. The complaints have been for multiple occupied RV's and asked Mr. Hager if there is only one RV on site. Mr. Hager said yes.

Member Loper said he supports the request. If there is a need today for his father, there could be a need in two years as well.

Vice Chairman Morris said he concurs and is ready to make a motion. Mr. Gerard asked should we include revising stipulation 'c' to have an expiration of May 18, 2019. Vice Chairman Morris agreed.

**BOARD ACTION: Vice Chairman Morris moved to approve TU2017010 with conditions 'a'-'g' with modification to condition 'c'. Member Loper second. Approved 5-0.**

- a. Development of the site shall comply with the aerial site plan, stamped received March 31, 2017, consisting of one (1) 8.5" x 11" page, except as modified by any condition identified herein.

- b. Use of the site shall be in conformance with the Application and Supplemental Questionnaire, consisting of 2 pages, stamped received March 31, 2017, except as modified by any condition identified herein.
- c. This Temporary Use Permit shall expire on **May 18, 2019**. The Temporary Use Permit approval letter must be visibly displayed at the front of the property at all times. Failure to meet this display requirement shall result in revocation of the Temporary Use Permit if a Zoning Citation is issued.
- d. Noncompliance with any Maricopa County Regulation or condition of approval shall be grounds for initiating a revocation of this Temporary Use Permit as set forth in the Maricopa County Zoning Ordinance.
- e. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with any condition.
- f. The applicant/owner shall obtain all necessary clearances and construction permits for the RV.
- g. All development and engineering design shall conform to the Drainage Regulation, Drainage Policies and Standards and current engineering policies, standards and best practices at the time of application for construction.

**TU2017011**

**Grant Property**

**District 1**

**Applicant:**

Betty & Sam Grant

**Location:**

304-91-222G @ 18531 E San Tan Blvd – 204<sup>th</sup> St. & San Tan Blvd. in the Queen Creek area

**Zoning:**

Rural-43 zoning district

**Request:**

1) Temporary Use Permit requesting a Temporary Caretaker Quarters

Mr. Smith presented TU2017011 and noted there is a violation on the property for multiple dwelling units.

Member Cardon said it states in the staff report that there are property entitlement permits as well as a discharge permit that have not been complied with. Is that still the case today? Mr. Smith said that is correct, the applicants came in on May 9 to obtain permits but did not believe they've been turned in yet.

Member Loper said when looking at the aerial there is a manufactured home on the north end of the property, and now they are proposing an RV in a different location? Mr. Smith said yes it does differ.

Member Riddell stated if this is granted does it resolve the issue of the RV, and there may be other open violations between code compliance and the applicant. Mr. Gerard said yes, when they come in to get permits they would be required to permit any of the accessory structures that are requiring permits.

Mrs. Betty Grant, the applicant stated they are needing the RV because she has health issues and will be needing a caregiver, and her daughter would be helping her for about a year.

They are currently in the process of acquiring the permits they need, and they should be ready to go on Monday. When they purchased the property in 2000, they didn't realize they needed permits for the structures since they were told as long as there was no permanent foundation they could put these things up.

Member Cardon stated when he read the staff report he was concerned about the various entitlements, permits and inspections that were all required, and in the stipulations it did address these concerns. There is also a note from the doctor and that states Mrs. Grant does require medical care and assistance.

**BOARD ACTION: Member Cardon moved to approve TU2017011 with conditions 'a'-'g'. Member Loper second. Approved 5-0.**

- a. Development of the site shall comply with the unentitled site plan, stamped received April 10, 2017, consisting of one (1) 8.5" x 11" page, except as modified by any condition identified herein.
- b. Use of the site shall be in conformance with the Narrative Report entitled, "Narrative to Accompany Temporary Use Application", consisting of 1 page, stamped received February 21, 2017, except as modified by any condition identified herein.
- c. This Temporary Use Permit shall expire on **May 18, 2018**. The Temporary Use Permit approval letter must be visibly displayed at the front of the property at all times. Failure to meet this display requirement shall result in revocation of the Temporary Use Permit if a Zoning Citation is issued.
- d. Noncompliance with any Maricopa County Regulation or condition of approval shall be grounds for initiating a revocation of this Temporary Use Permit as set forth in the Maricopa County Zoning Ordinance.
- e. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with any condition.
- f. The applicant/owner shall obtain all necessary clearances and construction permits for four structures, the RV, carport, gazebo, and horse barn.
- g. All development and engineering design shall conform to the Drainage Regulation, Drainage Policies and Standards and current engineering policies, standards and best practices at the time of application for construction.

**Adjournment:**

Chairman Harris adjourned the meeting of May 18, 2017 at 10:40 a.m.

Prepared by Rosalie Pinney  
Recording Secretary / Administrative Assistant  
May 18, 2017